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tofore for some years back been in storage, upon farm, and since 1907 had spent the greater portion of each year on farm, with no physical residence in city in which he had previously lived, except as transient at hotel or apartment house, and where he had paid capitation tax in such county for some years and reported income for taxation there, and while out of state had made out federal income tax return as resident of Virginia for 10 years prior to 1915, he was a resident of this state in 1915 within tax laws

Error to Circuit Court, Clarke County.

Petition by George A. Bowen against the Commonwealth for exoneration from payment of taxes assessed against him. Petition dismissed, and petitioner brings error. Affirmed.

McLanahan, Burton & Culberson, of Washington, D. C., and *Conrad Kownslar*, of Berryville, for plaintiff in error.

The Attorney General, W. T. Lewis, of Berryville, and *Oscar L. Shewmake*, of Richmond, for the Commonwealth.

E. H. PARRISH & CO. v. PULLEY.

Nov. 20, 1919.

[101 S. E. 236.]

1. Trial (§ 156 (3)*)—Construction of Evidence on Demurrer Thereto.—Where several inferences may be drawn from the evidence differing in degree of probability on a demurrer to the evidence, the court must adopt those most favorable to the demurree, unless they are strained, forced, or contrary to reason.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 524; 16 Va.-W. Va. Enc. Dig. 407.]

2. Master and Servant (§ 278 (12)*)—Sufficiency of Showing of Negligence of Master on Demurrer to Evidence.—In an employee's action for injuries by the slipping of a guy rope supporting a derrick, evidence held to require a finding that defendants were negligent in securing such rope to a crowbar set into the ground with the small end up.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 680, 725, 726.]

3. Master and Servant (§ 185 (1)*)—Character of Servant as Fellow Servant or Vice Principal.—A servant may in the performance of one act be a fellow servant and in the performance of another be a vice principal.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 8.]

4. Master and Servant (§ 185 (11)*)—Negligence of Fellow Servant in Preparing Appliance Negligence of Master.—The master's duty in fastening a guy rope supporting a derrick is not assignable,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

and a servant's negligence in such respect is that of the master.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 9.]

5. Master and Servant (§ 159*)—Master Never Becomes Fellow Servant.—While a representative of the master may become a fellow servant if engaged in a mere operative act, the master never can become a fellow servant.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 2.]

6. Master and Servant (§ 226 (1)*)—Negligence of Master Not Risk Assumed.—The servant never assumes any risk of negligence on the master's part, and if his personal negligence proximately contributes to the servant's injury he is liable as though he only were at fault.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 699.]

7. Master and Servant (§ 201 (1)*)—Injuries by Concurrent Negligence of Master and Fellow Servant.—The master is liable for injuries to a servant, though resulting from the concurrent negligence of the master and a fellow servant

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 5.]

8. Partnership (§ 153 (3)*)—Partners Liable for Negligent Injury to Servant.—If a master liable for injuries to a servant is a partnership, all the partners are liable.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 855.]

9. Trial (§ 156 (3)*)—Inferences against Demurree on Demurrer to Evidence.—On a demurrer to the evidence in a civil case, only those inferences are drawn against the demurree which necessarily flow from the evidence.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 524; 16 Va.-W. Va. Enc. Dig. 407.]

10. Master and Servant (§ 281 (8)*)—Evidence of Contributory Negligence.—In a servant's action for injuries due to the slipping of a guy rope supporting a derrick, evidence held not to show that he was guilty of contributory negligence in pinching the derrick so as to adjust it for its work.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 700, 701, 725.]

11. Master and Servant (§ 205 (1)*)—Servant May Assume Appliances Are Safe.—A servant may assume that a tool or appliance furnished him by the master is reasonably safe for the work assigned to him.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 669.]

Error to Corporation Court of City of Charlottesville.

Action by L. O. Pulley against E. H. Parrish & Co. A judgment for plaintiff was entered after overruling defendant's demurrer to the evidence, and defendants bring error. Affirmed.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.